

Testimony of Shirley M. Pripstein
Hamden, Connecticut

H.B. No. 6321 (RAISED)
AN ACT CONCERNING ADOPTION AND IMPLEMENTATION
OF THE CONNECTICUT PARENTAGE ACT

Judiciary Committee
March 8, 2021

My name is Shirley Pripstein. I am an attorney employed by Greater Hartford Legal Aid, Inc. I am a long-time member and past Chair of the Executive Committee of the Family Law Section of the CBA. I am submitting this testimony for myself. My views are my own and not reflective of the positions of either the Family Law Section or Greater Hartford Legal Aid. My view is informed by my 35 years of experience as a legal aid divorce lawyer and my 45 years of living openly as a lesbian in the State of Connecticut.

When I first saw the Uniform Parentage Act in the summer of 2019, I was concerned about creating a presumed parent status for the cohabitant of the birth or adoptive parent. The executive committee of Family Law Section was so concerned about this provision that in 2020 it voted unanimously to support deletion of subdivision 36(a)(3) from the bill. I am pleased to see that this year's version of the bill makes a significant change in that new subsection 36(b), lines 577-580, makes it clear that a presumed parent under subdivision 36(a)(3) - the cohabitation subdivision - is not a parent until either an adjudication or the signing of an acknowledgment and affirmation of paternity. This is in fact the current law with regard to heterosexual cohabitants. I see no reason not to extend the right to acknowledge paternity to same-sex cohabitants. The cohabitant's lack of genetic connection to the child does not trouble me because I know, through my work at legal aid, that it is not unusual for a man to sign an acknowledgment of paternity, and the birth mother an affirmation, even though both know that the man is not the genetic parent of the child.

Section 38 of the bill provides for "de facto parentage," and sets forth a detailed framework for determining who has standing to apply for de facto parentage status and what factors the court should consider in determining whether to grant such status. "Defacto" parent is another way of saying equitable parent, a concept that was rejected by our Supreme Court in the case of *Doe v. Doe*, 244 Conn. 403 710 A.2d 1297 (1998). I thought *Doe* was wrong in its rejection of the equitable parent doctrine when I first read it in 1998 – though notably, the court found a way to give custody of the child to the non-genetic parent while rejecting the doctrine. Getting a child into the custody of the proper person should not require a Supreme Court case and a 100 page opinion.

On the other hand, a one-year period of cohabitation and “holding out” as a parent seems an awfully short threshold criteria for allowing a person to initiate a lawsuit claiming defacto parenthood. See Section 38, subsection (a), subdivision (1) at line 677. In Connecticut, a couple can “hold out” as married for twenty-five years and still not have a claim to legal marriage. Connecticut does not and has not ever recognized common law marriage. One can divorce a spouse and end the legal entanglement. One cannot divorce a parent. A four-year cohabitation threshold as recommended by the Family Law Section seems more reasonable. I support the other amendments to this section recommended by the Family Law Section as well. Defacto parenthood should be possible but difficult; the focus should be on the bond between the child and the claimant (best interest of the child); adoption should be the preferred method of establishing a parent-child relationship; and litigation pursuant to section 38 should be rare.

Who is and who is not a parent for intestate inheritance purposes should be clear so as to preclude the need for litigation after a death. Sections 102, 103 and 104 of the bill address the intestate inheritance issues raised by defacto parentage and presumptive parentage of cohabitants. Estate law is not my area of expertise and I am not competent to express an opinion as to whether these sections accomplish that goal.

In sum, I support the amendments suggested by the Family Law Section and passage of the bill as amended.

Respectfully



Shirley M. Pripstein